

REMARKS

Claims 1-6, 11-14, 17, and 19-32 are pending in the present application. New claims 24-32 have been added, and are inclusive of the subject matter the Examiner stated was allowable in the February 18, 2005 Office Action.

Reconsideration of the application is respectfully requested in view of the following responsive remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

In the office action of February, 18, 2005, the following actions were taken:

(1) Claims 1-6, 11-15, 17 and 19-23 were rejected under 35 U.S. C. 103(a) as being unpatentable over Argaud (U.S. 4,963,360).

(2) Claims 7-10 were objected to as depending upon a rejected base claim but the Examiner stated that they would be allowable if they were rewritten in independent form including all of the limitations of the base claim and any intervening claims.

It is respectfully submitted that the presently pending claims be examined and allowed. Applicants submit that each and every amendment herein, and throughout the prosecution of the present application is fully supported by the specification as originally filed, and that no new matter has been added.

Objections to Claims 7-10

The Examiner objected to claims 7-10 as being dependent upon a rejected base claim, but stated they would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. Claim 7 has been rewritten in independent form as Claim 28 so that it no longer depends from a rejected base claim. Claims 8-10 were made to depend from new independent claim 29 and are now listed in claims 30-32. As claims 29-32 now present matter that the Examiner previously identified as allowable, it is respectfully requested that these claims be allowed.

Rejections Under 35 U.S.C. § 103

The Examiner has rejected claims 1-23 as being obvious over Argaud. The Applicant respectfully submits that the currently amended claims are patentable over

the cited reference for the reasons set forth below, and that the rejection should be withdrawn.

Argaud discloses a method for improving the absorption of medicinal components applied to the skin. The method uses an exothermic package body that has a carrier layer comprising a medicinal component, and an exothermic layer which develops heat when it is exposed to the air. The carrier layer containing the medicinal component and the exothermic layer are attached together by a base sheet, and together the exothermic layer, the carrier layer, and the base sheet together form the exothermic package body, which is a single integrated unit.

In contrast to the Argaud reference, the present invention provides a method of controlled delivery of analgesic through a patient's skin by administering an analgesic to a patient's skin using a dermal drug delivery system and a separate device in the form of a temperature modification apparatus. In other words in Argaud, the temperature modification apparatus, i.e. the exothermic layer, is integrated into the same package or body as the medicinal layer. Conversely the temperature modification apparatus of the present invention is a separate device that is physically independent from the dermal drug delivery system. The separate nature of the temperature modification apparatus of the present invention allows greater ability and flexibility in providing on-demand delivery of analgesics to a patient.

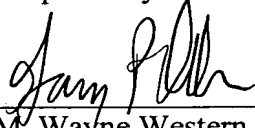
Argaud does not teach each and every element of the current application because it fails to disclose a temperature modification apparatus that is a separate device which is physically independent of the medicinal component layer. Therefore, as each and every element of independent claims 1 and 22 of the current application are not taught by the reference, and as claims 2-6, 11-14, 17, 19-21, and 23-24 depend from either claim 1 or claim 22, it is respectfully requested that this rejection be withdrawn and the claims be allowed.

In view of the foregoing, Applicants believe that claims 1-6, 11-14, 17, and 19-28 present allowable subject matter, and allowance is respectfully requested. If any impediment to the allowance of these claims remains after consideration of the above remarks, and such impediment could be removed during a telephone interview, the Examiner is invited to telephone the undersigned attorney at (801) 566-6633 so that such issues may be resolved as expeditiously as possible.

Please charge any additional fees except for Issue Fee or credit any overpayment to Deposit Account No. 20-0100.

Dated this 12 day of May, 2005.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "M. Wayne Western", is written over a horizontal line.

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